

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Rudy Mazzocchi et al. Attorney Docket: MVA1001USC8
Serial No.: 10/607,328 Group Art Unit: 3734
Filed: June 26, 2003 Examiner: Vy Q. Bui
For: METHOD AND DEVICE FOR FILTERING BODY FLUID

**COMMUNICATION ACCOMPANYING
INFORMATION DISCLOSURE STATEMENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants have previously notified the Office in accordance with MPEP § 2001.06(c) of the existence of litigation in which certain patents claiming priority to the same parent application (Serial No. 08/272,425) as the present application have been asserted against an infringer. Specifically, U.S. Patent Nos. 7,033,375, 6,989,019 and 6,949,103 have been asserted in counterclaims filed in May and June, 2006, (the "Litigation") against Boston Scientific Corporation and Boston Scientific SciMed, Inc. in Civil Action No. 05-651 filed in the United States District Court for the District of Minnesota. During the course of the Litigation certain allegations have been made by Boston Scientific that the above-identified patents are invalid or that they were procured through inequitable conduct or fraud. Certain other arguments have been made by the parties to the Litigation regarding the proper construction of certain terms used in the claims of the above-identified patents. Applicants have previously submitted copies of certain documents generated during the course of the Litigation which contain allegations of the types described above. Applicants are submitting herewith a copy of additional documents generated during the course of the Litigation. The documents being submitted are the reports of Boston Scientific's expert witnesses, James Moore, Jr. and R. Carl Moy, and the infringement

Certificate of Electronic Transmission (37 C.F.R. § 1.8)

I hereby certify that this paper is being transmitted to the U.S. Patent and Trademark Office electronic filing system on the date indicated below.

Date: October 29, 2007

Signature: 

Name: Jodi Jung

report of ev3 Inc.'s expert witness, Michael R. Forman. Also being submitted is the deposition of Terry Wiles which is referred to but not specifically cited in the Moy report and the cited portions of depositions referred to in the Moore report (Claude, Mazzocchi, Krygier, and Von Lehe depositions) as well as the exhibits attached to the Forman report. Further, the Litigation includes other documents not cited herein. Applicants, unless these documents are designated confidential and the party that has assigned the designation is unwilling to change their designation, will supply any additional Litigation documents that the Examiner desires to review upon the Examiner's request. The public electronic record and some of the documents from the Litigation can be found at the PACER website (<http://pacer.psc.uscourts.gov>, follow the link to the Minnesota District Court and search for case number 05-651).

Applicants reserve the right to show, pursuant to 37 C.F.R. § 1.131 or otherwise, that any one or more of the documents cited on the PTO/SB/08a form is not prior art to the present invention.

Pursuant to the Manual of Patent Examining Procedure, Chapter 609, Applicants request that the Examiner consider the listed document and initial and return to the undersigned a copy of the enclosed PTO/SB/08a form.

Please charge Deposit Account No. 16-2312 in the amount of \$180.00 to cover the fee required under 37 C.F.R. § 1.17(p) for this submission. It is believed that no additional fees are due in connection with this submission. However, if this is incorrect, please charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 16-2312.

Dated: October 29, 2007

Respectfully submitted,

By: Terry L. Wiles

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